

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;  
Nanci E. Langley, Vice Chairman;  
Mark Acton; and  
Tony Hammond

Competitive Product Prices  
Priority Mail Contract 95 (MC2014-49)  
Negotiated Service Agreement

Docket No. CP2014-85

ORDER APPROVING AMENDMENT TO  
PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT

(Issued December 22, 2016)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves the Amendment.

In Order No. 2210, the Commission approved the Priority Mail Contract 95 negotiated service agreement (Existing Agreement).<sup>2</sup> On December 13, 2016, the Postal Service filed notice that it has agreed to the Amendment to the Existing

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<sup>1</sup> Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Contract 95, December 13, 2016 (Notice). The amendment is an attachment to the Notice (Amendment).

<sup>2</sup> See Docket Nos. MC2014-49 and CP2014-85, Order Adding Priority Mail Contract 95 to the Competitive Product List, October 8, 2014 (Order No. 2210).

Agreement. On December 14, 2016, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>3</sup>

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.* The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.* Attachment B.

## II. COMMENTS

Comments were filed by the Public Representative.<sup>4</sup> No other person submitted comments. The Public Representative reviewed the financial worksheets and other documentation related to Priority Mail Contract 95. PR Comments at 2. Based on that review, she concludes that the requested Amendment will continue to generate sufficient revenue to cover costs and, thereby, satisfy the requirements of 39 U.S.C. § 3633(a). *Id.* She also states that the original terms of the contract should help maintain the contract's ability to meet the requirements of 39 U.S.C. § 3633(a) over the lifetime of the contract. Finally, she notes that the Commission will also have an opportunity to review the revenue, cost and volume data for the amended Priority Mail Contract 95 in future Annual Compliance Determinations (ACDs). *Id.*

## III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

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<sup>3</sup> See Docket No. CP2014-85, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, December 14, 2016.

<sup>4</sup> Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Contract 95, December 21, 2016 (PR Comments).

*Cost considerations.* The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Existing Agreement establishes terms and prices for Postal Service shipping services.<sup>5</sup> The Amendment replaces terms of the contract under sections I.B., I.F., and I.K., and removes section I.G. Notice, Attachment A at 1, 6. Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.K. of the amended agreement should allow the amended agreement's revenues to cover costs for the duration of its term. The Commission will continue to review the cost coverage of the amended agreement in its ACD to ensure that rates cover costs.

*Other considerations.* The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its

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<sup>5</sup> Docket Nos. MC2014-49 and CP2014-85, Request of the United States Postal Service to Add Priority Mail Contract 95 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, September 29, 2014, Attachment B.

review. Notice at 1. The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates the contract with 90 days' written notice to the other party or it is renewed by mutual agreement.<sup>6</sup>

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Priority Mail Contract 95 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble  
Secretary

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<sup>6</sup> Order No. 2210 at 5-6. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.